

DEC 26 2006

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ATTORNEYS AT LAW

FAX COVER PAGE

DATE: December 26, 2006

PAGES INCLUDING THIS PAGE: 13

TO: Examiner Julian W. Woo (Group Art Unit 3731)
COMPANY: United States Patent & Trademark Office

FAX NUMBER: 571-273-8300
PHONE NUMBER:

FROM: Brad A. Schepers, Reg. No. 45,431

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RE: Response to Final Office Action for U.S. Patent Application No. 10/644,252 to Thomas Zdeblick

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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PTO/SB/21 (09-04)

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

10/644,252

Filing Date

August 20, 2003

First Named Inventor

Thomas Zdeblick

Art Unit

3731

Examiner Name

Julian W. Woo

Attorney Docket Number

MSDI-224/PC242.38

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	December 26, 2006	Reg. No.	45,431

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name Brad A. Schepers Date December 26, 2006

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	Before the Examiner
Thomas Zdeblick et al.)	Julian W. Woo
Serial No. 10/644,252)	Group Art Unit 3731
Filed August 20, 2003)	Ref. No. MSDI-224/ PC242.38
INTERBODY FUSION DEVICE AND)	December 26, 2006
METHOD FOR RESTORATION OF)	
NORMAL SPINAL ANATOMY)	

Via Facsimile Transmission: 571-273-8300**RESPONSE TO FINAL OFFICE ACTION AND ADVISORY ACTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated September 28, 2006 and the Advisory Action mailed December 22, 2006, please enter and consider the following amendments and remarks. No extension fees are believed to be due with regard to the filing of this Response. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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Claims 19-25, 27-29, 31, 34-45 and 50 are pending in the subject application. Claims 27-29 and 34-43 have been allowed. Claim 45 has been objected to, but has been indicated as being allowable if rewritten in independent form. Claims 19-25, 31, 44 and 50 currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.

In the Advisory Action mailed December 22, 2006, the Applicant's response to the final Office Action was not entered because the amendments raise new issues that would require further considering and/or searching. The Applicant has further amended independent claims 44 and 50 to place these claims in condition for allowance. The Applicant submits that such amendments define over the prior art and do not raise new issues that would require further consideration and/or search. The Applicant therefore respectfully requests entry of the subject Response and allowance of the subject application.

Response to final Office Action
Application Serial No. 10/644,252
Inventor: Thomas Zdeblick et al.
Filing Date: August 20, 2003

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